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May 5, 2017

**VIA ECF**

Hon. Paul A. Engelmayer  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2201  
New York, NY 10007

Re: Blair v. Alstom Transp. Inc. et al., No. 1:16-cv-03391-PAE-JLC

Dear Judge Engelmayer:

We represent Plaintiff Scott Blair in the above referenced matter. We write in response to Defendant Kawasaki Rail Car, Inc.'s ("Kawasaki") letter dated May 5, 2017 (Dkt. # 47). In addition to the arguments made against staying this case in Plaintiff's opposition to Kawasaki's motion to stay (Dkt. # 33), Plaintiff submits that for at least the following reasons this Court should deny Kawasaki's renewed application to stay this action:

First, most of the asserted claims in this case are not the subject of the IPR that has been instituted. The IPR at issue only relates to five of the asserted claims (claims 1-4 and 6) in this case. There are 23 claims, including 2 independent claims, that Plaintiff is asserting against Defendants in which the PTAB has not instituted an IPR (Dkt. # 33). As noted in Plaintiff's opposition to Kawasaki's motion to stay this case, U.S. Patent No. 6,700,602 (the "'602 patent") has already been the subject of reexamination based on prior art asserted by Kawasaki and the challenged '602 patent's claims were sustained with no amendments and additional claims were added by the PTAB.

Second, the issues that may be considered in the IPR proceeding are limited to claims of invalidity under 35 U.S.C. §§ 102 and 103 and any other bases for challenging the validity of the claims for which Defendants Alstom Transportation, Inc. ("Alstom") and Kawasaki have asserted, in particular, invalidity of the claims based on indefiniteness, cannot be addressed in the IPR proceeding. This Court is the only forum in which all of the asserted patent claims and all of the defenses and legal issues raised by the parties, *i.e.*, novelty, nonobviousness, indefiniteness, and infringement, among others, can be decided.

Third, Defendant Alstom has not joined in Kawasaki's IPR petition and therefore any determination made by the PTAB would not have an estoppel effect with respect to Alstom and would have to be relitigated in this Court. Plaintiff filed this lawsuit a year ago and is entitled to a speedy and efficient determination of the merits of his claims and this forum is the only forum in which all of the issues between all of the parties can be decided.

Accordingly, Plaintiff respectfully requests that Defendant Kawasaki's renewed application to stay this action be denied.

Respectfully submitted,

/s/ Dariush Keyhani  
Dariush Keyhani

cc: counsel for Defendants